

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of )  
)  
)

Computer III Further Remand )  
Proceedings: Bell Operating )  
Company Provision of Enhanced Services )  
)  
)

**RECEIVED**

**MAY 19 1995**

CC Docket No. 95-20

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF THE INDEPENDENT DATA COMMUNICATIONS  
MANUFACTURERS ASSOCIATION**

Herbert E. Marks  
Jonathan Jacob Nadler  
Brian J. McHugh

Squire, Sanders & Dempsey  
1201 Pennsylvania Ave., N.W.  
P.O. Box 407  
Washington, D.C. 20044  
(202) 626-6600

Counsel for the  
Independent Data Communications  
Manufacturers Association, Inc.

May 19, 1995

No. of Copies rec'd 10  
List A B C D E

## SUMMARY

The Commission has requested comment concerning the safeguards necessary to prevent anti-competitive conduct by the Bell Operating Companies ("BOCs"). Predictably, the BOCs oppose structural separation, arguing that the Computer III non-structural safeguards are sufficient. Two of the BOCs, Bell Atlantic and Pacific Bell, go further. These commenters would have the Commission weaken those safeguards.

The Commission should reject Bell Atlantic's proposal to roll back the network information disclosure period to one month and to abandon the disclosure requirement in situations in which the customer specifies equipment to be located in the carrier's central office. The Commission's rules already give the BOCs a competitive advantage by granting them preferential access to network information. At the same time, the network information disclosure rules do not provide ESPs and independent CPE manufacturers with a sufficient amount of time to design competitive services and equipment that can interoperate with new or modified network services.

Bell Atlantic's claim that a token one month waiting period is justified because, in some instances, the BOCs have used network interfaces that are based on voluntary industry standards or Bellcore technical references is patently unreasonable. An ESP or independent CPE manufacturer cannot realistically be expected to devote resources to developing services and equipment that rely on a particular standard until a BOC announces that it intends to deploy a service relying on that standard. In addition, abandoning the network disclosure rules in instances where customers specify central office equipment would inhibit competition for central office equipment and CPE "paired" with that equipment and, as a consequence, present users with higher prices, lower quality, and less innovation.

The Commission also should reject Bell Atlantic and Pacific Bell's proposals to weaken the customer proprietary network information ("CPNI") rules. Bell Atlantic requests the Commission to discard the requirement that the BOCs obtain prior approval before using the CPNI of their customers with more than twenty telephone lines to develop or market enhanced services. However, Bell Atlantic fails to present any evidence to rebut the Commission's finding that unrestricted BOC access to CPNI would give the BOCs an unfair competitive advantage over non-affiliated vendors. Pacific Bell's proposal to eliminate the CPNI rules in the case of fully competitive network services also is severely flawed. As a threshold matter, it is not clear that any basic services market in which the BOCs participate can now be classified as "fully competitive." Moreover, Pacific Bell's proposal would require the Commission to establish and maintain an elaborate system to differentiate CPNI from competitive and non-competitive services. In any case, the CPNI rules also are intended to protect user privacy and, therefore, should remain in effect regardless of the level of competition in a given market sector.

The only appropriate change to Commission's safeguards would be to strengthen them. Specifically, the Commission should require the BOCs to disclose network information at a minimum of twelve months prior to the introduction of a new service. Further, the Commission should require the BOCs to obtain prior authorization before using the CPNI of all customers to develop or market either enhanced services or CPE. These changes should be made even if the Commission requires the use of structural separation.

## TABLE OF CONTENTS

SUMMARY.....	i
I. INTRODUCTION AND INTEREST OF IDCMA.....	1
II. THE COMMISSION SHOULD STRENGTHEN, RATHER THAN WEAKEN, THE NETWORK INFORMATION DISCLOSURE RULES.....	4
A. The Commission Should Not Shorten the Disclosure Period.....	4
B. The Commission Should Not Eliminate the Disclosure Obligation in Situations in Which Customers Specify Central Office Equipment.....	9
III. THE COMMISSION SHOULD STRENGTHEN, RATHER THAN WEAKEN, THE CPNI RULES.....	11
CONCLUSION.....	15

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

\_\_\_\_\_  
In the Matter of )  
 )  
 )

Computer III Further Remand )  
Proceedings: Bell Operating )  
Company Provision of Enhanced Services )  
 )  
\_\_\_\_\_ )

CC Docket No. 95-20

**REPLY COMMENTS OF THE INDEPENDENT DATA COMMUNICATIONS  
MANUFACTURERS ASSOCIATION**

The Independent Data Communications Manufacturers Association ("IDCMA"), by its attorneys, hereby replies to the comments filed in response to the Commission's Notice of Proposed Rulemaking concerning the safeguards necessary to prevent anticompetitive conduct by the Bell Operating Companies ("BOCs").<sup>1</sup>

**I. INTRODUCTION AND STATEMENT OF INTEREST**

IDCMA is an association of data communications manufacturers that are not affiliated with common carriers. IDCMA has participated in almost every major proceeding that has affected enhanced services and customer premises equipment ("CPE"), including the

\_\_\_\_\_  
<sup>1</sup> See Computer III Remand Proceedings: Bell Operating Company Provision of Enhanced Services, Notice of Proposed Rulemaking, CC Docket No. 95-20, FCC 95-48 (released Feb. 21, 1995) ("Notice").

Commission's Computer II and Computer III inquiries. IDCMA consistently has urged the Commission to adopt safeguards to promote competition and user choice in these markets.

This proceeding was necessitated by the Ninth Circuit's decision in California III, which held that the Commission had failed to demonstrate that the Computer III non-structural safeguards are adequate to prevent the BOCs from discriminating in access to their monopoly telephone networks.<sup>2</sup> On remand, the Commission has requested comment as to whether the BOCs should be required to provide enhanced services through structurally separate subsidiaries or whether the Commission's non-structural safeguards are sufficient to prevent BOC access discrimination.<sup>3</sup>

Although the primary focus of this proceeding is on the adequacy of the safeguards applicable to the provision of enhanced services by the BOCs,<sup>4</sup> the non-structural safeguards that the Commission is reviewing are of critical importance to independent CPE manufacturers as well. Several of these safeguards -- including the network information disclosure rules and the Customer Proprietary Network Information ("CPNI") rules -- also are intended to prevent the BOCs from subjecting independent manufacturers to access discrimination.

Many of the commenters argue that the Computer III safeguards are inadequate and urge the Commission to require the BOCs to provide enhanced services through structurally

---

<sup>2</sup> See California v. FCC, 39 F.3d 919 (9th Cir. 1994), cert. denied, 115 S. Ct. 1427 (1995) ("California III").

<sup>3</sup> See Notice at ¶ 2.

<sup>4</sup> Id.

separate subsidiaries.<sup>5</sup> Predictably, the BOCs oppose structural separation, arguing that the non-structural safeguards are sufficient.<sup>6</sup> Two of the BOCs, Bell Atlantic and Pacific Bell, go further. Remarkably, in light of the Ninth Circuit's California III decision -- which raised serious questions as to whether the Computer III non-structural safeguards are adequate to prevent BOC access discrimination -- these commenters would have the Commission weaken those safeguards.

Bell Atlantic seeks to erode the network information disclosure rules by having the Commission reduce the advance disclosure period to just one month and abandon altogether the disclosure obligations in cases in which customers specify equipment to be located in a carrier's central office.<sup>7</sup> In addition, both Bell Atlantic and Pacific Bell would have the Commission abandon the requirement that the BOCs obtain prior customer approval before using the CPNI of their customers with more than twenty telephone lines.<sup>8</sup> Significantly, neither Bell Atlantic nor Pacific Bell attempt to explain how weakened non-structural safeguards could withstand judicial scrutiny.

---

<sup>5</sup> See, e.g., Comments of the Information Technology Association of America, at 20-59 (Apr. 7, 1995); Comments of AT&T Corp., at 2-3 (Apr. 7, 1995); Comments of MCI Telecommunications Corporation, at 13-49 (Apr. 7, 1995); Comments of Prodigy Services Company, at 2-5 (Apr. 7, 1995); Comments of the Newspaper Association of America, at 4-10 (Apr. 7, 1995); Comments of the Ad Hoc Telecommunications Users Committee, at 18-20 (Apr. 7, 1995); Comments of the Association of Telemessaging Services International Inc., at 6-10 (Apr. 7, 1995); Comments of Compuserve Incorporated, at 19-49 (Apr. 7, 1995).

<sup>6</sup> See Comments of U S West, at 18-22 (Apr. 7, 1995); NYNEX Comments, at 5-13 (Apr. 7, 1995); Comments of Ameritech, at 9-13 (Apr. 7, 1995).

<sup>7</sup> See Comments of Bell Atlantic, at 29-31 (Apr. 7, 1995).

<sup>8</sup> See id. at 25-29; Comments of Pacific Bell, at 70 (Apr. 7, 1995).

Bell Atlantic and Pacific Bell's proposals to weaken the Commission's non-structural safeguards are unsound. As IDCMA demonstrates below, the only appropriate change to the Commission's non-structural safeguards would be to strengthen them. This change should be made even if the Commission also requires the use of structural separation.

## **II. THE COMMISSION SHOULD STRENGTHEN, RATHER THAN WEAKEN, THE NETWORK INFORMATION DISCLOSURE RULES**

The Commission should reject Bell Atlantic's proposal to roll back the network information disclosure period to one month and to abandon the disclosure requirement in situations in which the customer specifies equipment to be located in the carrier's central office. Instead, the Commission should take this opportunity to extend the minimum disclosure period to one year and affirm that network information disclosure is required even when the customer specifies the equipment to be located in the carrier's central office.

### **A. The Commission Should Not Shorten the Disclosure Period**

The Commission has long recognized that carriers have the "ability to design new or modified network services that favor their own enhanced service operations."<sup>9</sup> To eliminate

---

<sup>9</sup> Amendment to Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), 2 FCC Rcd 3072, 3088 (1987), on recon., 3 FCC Rcd 1135 (1988), on further recon., 4 FCC Rcd 5927 (1989), vacated sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990) ("Computer III Phase II Order"). Similarly, the Commission has recognized that the BOCs have the "ability to design new network services or change network technical specifications to favor their own CPE or that of a preferred manufacturer." Furnishing of Customer Premises Equipment by the Bell Operating Companies, 2 FCC Rcd 143, 150 (1987) ("BOC CPE Structural Relief Order").

this anti-competitive advantage, the Commission requires the BOCs to disclose network information twelve months before introducing a new or modified network service.<sup>10</sup> In instances where a BOC is able to introduce a new service less than twelve months after the make/buy point,<sup>11</sup> disclosure is required at the make/buy point. In no case, however, can the service be introduced until six months after the public disclosure.<sup>12</sup> In addition to technical information, the BOCs also must disclose marketing information, including information about the pricing, geographic availability, and introduction of the new or modified service.<sup>13</sup>

Carriers, consumers, and independent vendors benefit from the network information disclosure rules. These rules ensure that a wide variety of enhanced services and CPE will be available to interoperate with new or modified network services. This provides consumers with expanded choices and enhanced service and CPE vendors with greater market opportunities. This, in turn, increases the demand for carrier-provided transmission services.

As Bell Atlantic's own comments illustrate, the BOCs have systematically failed to comply with the disclosure rules. In its comments, Bell Atlantic refers to a "six month"

---

<sup>10</sup> See Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571, 7602-7604 (1991), vacated in part sub nom. California v. FCC, 39 F.3d 919 (9th Cir. 1994), cert. denied, 131 L. Ed. 309 (1995) ("Computer III Remand Order").

<sup>11</sup> The "make/buy point" is the point at which "the carrier decides to make itself, or to procure from an unaffiliated entity, any product the design of which affects or relies on the network interface." Computer III Phase II Order, 2 FCC Rcd at 3086.

<sup>12</sup> See id.

<sup>13</sup> See NYNEX Telephone Companies, Tariff F.C.C. No. 1, 9 FCC Rcd 1608 (1994); BOC CPE Structural Relief Order, 2 FCC Rcd at 151.

disclosure rule.<sup>14</sup> However, six months represents an absolute minimum, not the norm. It is only when the make/buy point falls less than twelve months before the introduction of a new service that the disclosure period may be abbreviated. And even then, the trigger for disclosure is the make/buy point, not the six month mark.

The BOCs' disclosures also have been substantively inadequate to fully comply with the Commission's network information disclosure rules.<sup>15</sup> In some cases, the BOCs' disclosures have been cursory and marketing information often has not been provided. In others, relevant information has been buried within voluminous documents. What information is disclosed is often not in a form "sufficiently broad in scope and defined in detail to permit offerors of CPE . . . to design services and equipment that will be completely interoperable with the basic network."<sup>16</sup>

Even if the BOCs were to comply with the network information disclosure rules, ESPs and independent CPE manufacturers would still be left at a competitive disadvantage. Two shortcomings of the network information disclosure rules account for this imbalance. First, as explained by the Information Technology Association of America, the network disclosure rules give the BOCs a "head start."<sup>17</sup> The BOCs use their knowledge of their networks to design competitive offerings well before the point at which they must make public disclosure. Second,

---

<sup>14</sup> See Comments of Bell Atlantic, at 29-31.

<sup>15</sup> This problem is exacerbated by the BOCs' practice of delegating the task of disclosing network information to network equipment vendors who have a disincentive to provide network information to competing CPE manufacturers.

<sup>16</sup> Computer and Business Equipment Mfrs. Ass'n, 93 F.C.C.2d 1226, 1238 (1983).

<sup>17</sup> See Comments of the Information Technology Association of America, at 33.

once disclosure has been made, the network disclosure rules do not provide ESPs and independent CPE manufacturers with a sufficient amount of time to design competitive equipment and services that can interoperate with new or modified network services. While public disclosure must occur six to twelve months prior to the introduction of a new service, it can take eighteen to twenty four months to develop new products.<sup>18</sup>

Not satisfied with the competitive advantages it enjoys under the existing network disclosure rules, Bell Atlantic would have the Commission tilt the rules even further in its favor. Bell Atlantic theorizes that a token one month waiting period is justified because, in some instances, the BOCs have used network interfaces that are based on voluntary industry standards or Bellcore technical references.<sup>19</sup> On this basis, Bell Atlantic asserts that "a separate disclosure is unnecessary to induce manufacturers to develop equipment to meet those interfaces."<sup>20</sup>

Bell Atlantic's claim is patently unreasonable. The fact that a standard is adopted by a standards body does not mean that it will be implemented by the BOCs. An independent CPE manufacturer or ESP can not realistically be expected to devote resources to developing equipment and services that rely on a particular standard until a BOC announces that it intends to deploy a service relying on that standard. Therefore, the availability of public standards is

---

<sup>18</sup> This problem will become even more critical if, as the BOCs have requested, the ban on manufacturing is overturned through legislation. See Telecommunications Competition and Deregulation Act of 1995, S. 652, 104th Cong., 1st Sess. § 222 (1995); Communications Act of 1995, H.R. 1555, 104th Cong., 1st Sess. §102 (1995).

<sup>19</sup> See Comments of Bell Atlantic, at 29-31.

<sup>20</sup> Id at 30.

no substitute for BOC compliance with the Commission's rules, which require advance disclosure of technical and marketing information.

Equally unconvincing is Bell Atlantic's claim that the network disclosure period should be rolled back because the six to twelve month waiting period harms users by delaying the introduction of new or significantly modified services.<sup>21</sup> It generally takes at least six to twelve months for the BOCs to take the steps necessary to introduce a new or modified service, such as ordering intelligent network equipment, installing such equipment, developing marketing plans, and filing tariffs. Significantly, the users have not expressed concern about the effects of the disclosure period. To the contrary, the users have called for a strengthening of the Commission's safeguards.<sup>22</sup>

Finally, Bell Atlantic's claim that market forces are sufficient to ensure adequate disclosure is unpersuasive. As the Newspaper Association of America correctly observes, "the problem of access discrimination is itself created by market forces" which give the BOCs an incentive to use their monopoly control over local networks to discriminate in favor of affiliates providing non-regulated services.<sup>23</sup> Such an incentive currently exists in the enhanced service market, and, as pointed out by a number of commenters,<sup>24</sup> has resulted in documented evidence

---

<sup>21</sup> Id at 31.

<sup>22</sup> See Comments of the Ad Hoc Telecommunications Users Committee, at 17.

<sup>23</sup> See Comments of the Commercial Internet eXchange Association, at 4-5.

<sup>24</sup> See, e.g., Comments of the Newspaper Association of America, at 12; Comments of Prodigy Services Company, at 4; Comments of the Association of Teleessaging Services International, Inc., at 4-5.

of anti-competitive abuse.<sup>25</sup> Similar anti-competitive conduct can be expected in the CPE market if the BOCs are successful in overturning the ban on manufacturing, either through legislation or their current effort to vacate the Modification of Final Judgment.<sup>26</sup>

If the Commission makes any changes to its network information disclosure rules, it should be to strengthen them. As explained above, the network disclosure rules do not provide independent ESPs and independent manufacturers with sufficiently advanced access to network information to allow them to develop competitive products. To remedy this inequity, the Commission should require the BOCs to make adequate disclosure (and provide accompanying marketing information) at a minimum of twelve months prior to the introduction of a new service.

**B. The Commission Should Not Eliminate the Disclosure Obligation in Situations in Which Customers Specify Central Office Equipment**

Bell Atlantic claims that no competitive interest is served by the disclosure of network information in situations in which customers specify the equipment to be located in their

---

<sup>25</sup> For example, the Ninth Circuit explained that the MemoryCall case -- which arose out of BellSouth's conduct in providing a voice messaging service -- demonstrates "that the BOCs have the incentive to discriminate and the ability to exploit their monopoly control over the local networks to frustrate regulators' attempts to prevent anticompetitive behavior." California III, 39 F.3d at 929.

<sup>26</sup> See Telecommunications Competition and Deregulation Act of 1995, S. 652, 104th Cong., 1st Sess. § 222 (1995); Communications Act of 1995, H.R. 1555, 104th Cong., 1st Sess. § 102 (1995); Motion of Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, and Southwestern Bell Corporation to Vacate the Decree, United States v. Western Elec., Civ. No. 82-0192 (D.D.C. July 6, 1994).

local exchange carrier's central office.<sup>27</sup> It therefore asks for the elimination of all disclosure requirements in this situation. Bell Atlantic's arguments are simply incorrect. Lifting the network disclosure requirement in these circumstances would harm users by decreasing competition in both the market for central office equipment and for CPE that is "paired" with this equipment.

Relieving the BOCs of their network disclosure obligations for customer-specified central office equipment would be likely to give rise to two types of anti-competitive conduct. First, the BOCs would be able to discriminate by offering only preferred customers the ability to bypass the network disclosure waiting period by specifying central office equipment. Plainly, the right to collocate equipment in a carrier's central office should be offered to all users on a non-discriminatory basis.<sup>28</sup>

Second, if the BOCs' network disclosure obligations turn on whether customers specify central office equipment, the BOCs will have an incentive to coerce customers to "designate" central office equipment selected by the BOCs. The BOCs could do so by telling their customers that, if they specify carrier-recommended central office equipment, they will not have to wait until the end of the disclosure period to obtain service. Of course, in the absence

---

<sup>27</sup> See Comments of Bell Atlantic, at 31.

<sup>28</sup> While the Commission's Expanded Interconnection rules allow customers to designate equipment to be "virtually collocated" in the LECs' central offices, customers have a right to do so only if they provide the fiber or microwave link from their premises to the central office. IDCMA previously has asked the Commission to lift this requirement. The Commission, however, has yet to act on this request. See Comments of IDCMA, CC Docket No. 91-141, at 13-16 (Aug. 6, 1991).

of network disclosure, the only available CPE that can interoperate with the designated central office equipment is likely to be made by the "recommended" manufacturer.

The effect of such anti-competitive conduct would last beyond the initial transaction. For without disclosure, independent CPE manufacturers could not develop "paired" CPE that could interoperate with customer-specified central office equipment. As a result, independent CPE manufacturers effectively would be foreclosed from competing for the future CPE purchases of customers that specify central office equipment. By "locking-in" customers to a single manufacturer's products, Bell Atlantic's proposal would decrease competition in the CPE market. The end-result would be higher prices, fewer choices, and less innovation. IDCMA therefore urges the Commission to affirm that the network disclosure rules apply when customers specify the equipment to be located in their carrier's central office.

### **III. THE COMMISSION SHOULD STRENGTHEN, RATHER THAN WEAKEN, THE CPNI RULES**

Neither Bell Atlantic nor Pacific Bell's proposal to weaken the Commission's CPNI rules warrants serious consideration. The CPNI rules grant the BOCs unrestricted access to the CPNI of residential and small business customers, but require the BOCs to obtain prior approval before using the CPNI of customers with more than twenty telephone lines to develop or market enhanced services.<sup>29</sup> The BOCs, however, are not required to obtain prior authorization before using this information to develop or market CPE. By contrast, ESPs and

---

<sup>29</sup> See Computer III Remand Order, 6 FCC Rcd at 7611-13.

independent CPE manufacturers must obtain prior customer authorization to access CPNI in all cases.

The ability of the BOCs to gain access to CPNI without prior approval in most cases places ESPs and independent CPE manufacturers at a competitive disadvantage.<sup>30</sup> Bell Atlantic now seeks to increase its competitive advantage by asking the Commission to allow it to use CPNI without prior approval in all cases. The Commission should deny Bell Atlantic's request.

In its comments, Bell Atlantic seriously misrepresents the value of both CPNI and the Commission's CPNI rules.<sup>31</sup> CPNI is commercially valuable information: it can be used by a BOC to identify when a customer is in the market for CPE or an enhanced service, and may well provide information about the specific product or service needed. The Commission has recognized this fact, noting that "unrestricted access to CPNI . . . give[s] the BOCs an advantage over competing ESPs in marketing enhanced services to BOC customers."<sup>32</sup> Bell Atlantic has not even attempted to present any evidence to rebut this conclusion.

Bell Atlantic's suggestion that the prior authorization requirement should be eliminated because customers with more than twenty lines are "confused and inconvenienced" is without merit. As the Commission has previously recognized, many users object to

---

<sup>30</sup> See Comments of the Independent Data Communications Manufacturers Association, CC Docket No. 90-623 at 3-9 (Apr. 11, 1994).

<sup>31</sup> See Comments of Bell Atlantic, at 27 (claiming that the primary value of CPNI is to provide "one-stop shopping for non-cellular services and products").

<sup>32</sup> See Computer III Remand Order, 6 FCC Rcd at 7611.

unrestricted BOC access to their CPNI and want a prior authorization requirement.<sup>33</sup> Moreover, if properly informed by Bell Atlantic, these sophisticated users can certainly provide prior approval if they so choose.<sup>34</sup>

Pacific Bell's proposal to eliminate the CPNI rules in the case of "fully competitive network services" also is severely flawed.<sup>35</sup> As a threshold matter, IDCMA is skeptical that any basic services market in which the BOCs participate can now be classified as "fully competitive." Even if there were such a market, Pacific Bell's proposal would be unsound. While the principal goal of the CPNI rules is to promote competition, they also are intended to protect customers' privacy interests.<sup>36</sup> The use of CPNI without prior consent implicates privacy concerns regardless of the level of competition in a given market sector.

Pacific Bell's proposal also is unworkable. If implemented, it would require the Commission to undertake time-consuming reviews of each of the services provided by each of the BOCs to determine if they are "fully competitive." Further, the Commission would have to establish and maintain an elaborate system to differentiate CPNI from "competitive" and "non-

---

<sup>33</sup> See id.; Computer III Phase II Order, 2 FCC Rcd at 3095.

<sup>34</sup> The Commission also should reject Bell Atlantic's request to replace the annual mailed notification that it must provide to its multi-line business customers -- defined as customers with two or more lines -- with a "complete statement" in the white pages. See Comments of Bell Atlantic, at 25-29. If the present mailings are confusing, Bell Atlantic should improve them. If Bell Atlantic feels that a statement in the white pages will help redress its past failure to communicate with its multi-line business customers, then Bell Atlantic should provide such a statement.

<sup>35</sup> See Comments of Pacific Bell, at 70.

<sup>36</sup> See Computer III Remand Order, 6 FCC Rcd at 7609.

competitive" services. As a result, Pacific Bell's plan would unnecessarily add to the already sizeable demands placed on the Commission's scarce resources.<sup>37</sup>

If any change is made to the CPNI rules, it should be to expand the prior authorization requirement to all BOC customers -- not just those who subscribe to more than twenty lines -- and to make the prior authorization requirement applicable when the BOCs use CPNI to develop or market enhanced services or CPE.

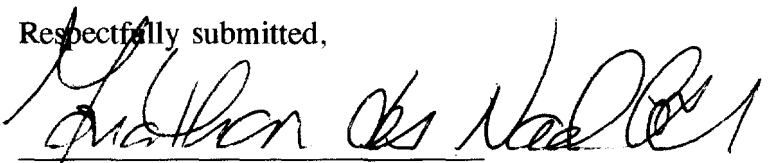
---

<sup>37</sup> See General Accounting Office, Telephone Communications: Controlling Cross-Subsidy Between Regulated and Competitive Services, RCED-88-34, at 51-54 (Oct. 1987) (discussing the strain placed on the Commission's resources by the task of monitoring the BOCs' compliance with the Commission's rules).

## CONCLUSION

For the foregoing reasons, IDCMA urges the Commission to reject Bell Atlantic's and Pacific Bell's proposals to weaken the Computer III non-structural safeguards. Instead, the Commission should take this opportunity to strengthen both the network information disclosure rules and the CPNI rules and thereby eliminate the competitive advantages currently enjoyed by the BOCs under those rules.

Respectfully submitted,



Herbert E. Marks  
Jonathan Jacob Nadler  
Brian J. McHugh

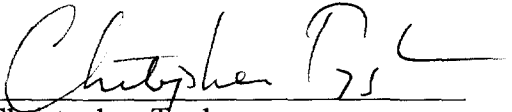
Squire, Sanders & Dempsey  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 407  
Washington, D.C. 20044  
(202) 626-6600

Counsel for the  
Independent Data Communications  
Manufacturers Association

May 19, 1995

## **CERTIFICATE OF SERVICE**

I, Christopher Tygh, hereby certify that a true and correct copy of the foregoing Reply Comments of the Independent Data Communications Manufacturers Association in CC Docket No. 95-20 was sent by first class mail, postage prepaid, to the following on this the 19th day of May, 1995:

  
Christopher Tygh

James P. Tuthill  
Jeffrey B. Thomas  
Pacific Bell & Nevada Bell  
140 New Montgomery Street  
Room 1522A  
San Francisco, CA 94105

Keith J. Epstein  
Bruce A. Ramsey  
Pacific Bell & Nevada Bell  
3401 Crow Canyon Road  
Suite 100  
San Ramon, CA 94583

James L. Wurtz  
Margaret E. Garber  
Pacific Bell & Nevada Bell  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Frank Michael Panek  
Ameritech  
Room 4H84  
2000 W. Ameritech Center Drive  
Hoffman Estates, IL 60196

Robert M. Lynch  
Durward D. Dupre  
Michael J. Zpevak  
Southwestern Bell Telephone Company  
One Bell Center  
Suite 3520  
St. Louis, MO 63101

Michael E. Glover  
Lawrence W. Katz  
Bell Atlantic  
1320 North Court House Road  
Eighth Floor  
Arlington, VA 22201

M. Robert Sutherland  
A. Kirven Gilbert III  
BellSouth Telecommunications, Inc.  
4300 Southern Bell Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375

Robert B. McKenna  
U S WEST, Inc.  
1020 19th Street, N.W.  
Suite 700  
Washington, D.C. 20036

Edward R. Wholl  
Campbell L. Ayling  
William J. Balcerski  
NYNEX Telephone Companies  
1111 Westchester Avenue  
White Plains, NY 10604

Mary E. Burgess  
New York State Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

Maureen O. Helmer  
General Counsel  
New York State Department  
of Public Service  
Three Empire State Plaza  
Albany, New York 12223

Daniel L. Barenner  
Neal M. Goldberg  
David L. Nicoll  
National Cable Television  
Association, Inc.  
1724 Massachusetts Avenue, N.W.  
Washington, D.C. 20036

Howard J. Symons  
Donna N. Lampert  
Sara F. Seidman  
National Cable Television Assoc.  
Mintz, Levin, Cohn, Ferris,  
Glovsky and Popeo, P.C.  
701 Pennsylvania Avenue, N.W., Ste. 900  
Washington, D.C. 20004

Alan J. Gardner  
Jerry Yanowitz  
Jeffrey Sinsheimer  
California Cable Television  
Association  
4341 Piedmont Avenue  
Oakland, CA 94611

Frank W. Lloyd  
Donna N. Lampert  
Sara F. Seidman  
The California Cable Tele. Assoc.  
Mintz, Levin, Cohn, Ferris,  
Glovsky and Popeo, P.C.  
701 Pennsylvania Avenue, N.W. - Suite 900  
Washington, D.C. 20004

Robert J. Butler  
Paul C. Smith  
Association of Telemessaging  
Services International, Inc.  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Peter A. Rohrbach  
Linda L. Oliver  
LDDS Communications  
Hogan & Hartson  
555 15th Street, N.W.  
Washington, D.C. 20005

Cheryl L. Parrino, Chairman  
Scott A. Neitzel, Commissioner  
Public Service Commission of  
Wisconsin  
610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

Robert J. Butler  
Prodigy Services Company  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

James S. Blaszak  
D.E. Boehling  
Ad Hoc Telecommunications Users Committee  
Levine, Blaszak, Block & Boothby  
1300 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20036

Richard E. Wiley  
Michael Yourshaw  
Steven A. Augustino  
Newspaper Association of  
America  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Albert Shuldiner  
Information Industry Association  
555 New Jersey Avenue, N.W.  
Suite 800  
Washington, D.C. 20001

Mark C. Rosenblum  
John J. Langhauser  
Clifford K. Williams  
AT&T Corp.  
Room 3244J1  
295 N. Maple Avenue  
Basking Ridge, NJ 07920

C. Donald Berteau  
GeoNet Limited, L.P.  
Suite 200  
3339 Cardinal Drive  
Vero Beach, FL 32963

Robert L. Plessner  
Julie A. Garcia  
Mark J. O'Connor  
Commercial Internet Exchange Association  
Piper & Marbury  
1200 19th Street, N.W.  
Seventh Floor  
Washington, D.C. 20036

Frank W. Krogh  
Donald J. Elardo  
MCI Telecommunications Corporation  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Randolph J. May  
Brian T. Ashby  
Compuserve Incorporated  
Sutherland, Asbill & Brennan  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2404

Joseph P. Markoski  
Jonathan Jacob Nadler  
Jeffrey A. Campbell  
Information Technology Association of America  
Squire, Sanders & Dempsey  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 407  
Washington, D.C. 20044